



# Excise Taxes Newsletter

PUBLICATION 337

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## GENERAL INTEREST

### 1. Annual Taxpayers' Bill of Rights Hearings

Do you have suggestions for improving our services? Do you want us to look more closely at a tax or fee issue? If you do, come share your ideas and concerns with our Board Members at the annual Taxpayers' Bill of Rights hearings. You can present your proposal orally or in writing.

The annual business and property taxes hearings for 2009 will be held in Sacramento on March 17, 2009 and in Culver City on April 28, 2009. Both hearings will start at or after 1:30 p.m. Please check the Board's website for addresses.

Although you are not required to make advance arrangements to speak, it would help us to prepare if you contact the Taxpayers' Rights Advocate Office at 888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in writing in advance and then summarize it in your oral presentation.

For more details, please call the Taxpayers' Rights Advocate Office or visit us at [www.boe.ca.gov](http://www.boe.ca.gov) (click on the tab "Your Rights" and choose "Taxpayers' Rights Advocate"), where you can also view the office's 2007-08 annual report, which will be available soon.

### 2. Know your rights

As a taxpayer, you have many rights under the law, including the right to:

- Receive information and assistance to help you comply with the law.
- Be treated fairly and courteously, and receive prompt service.
- Appeal a decision or claim a refund as allowed by law.

Of course, along with these rights, you have certain responsibilities, including the responsibility to:

- Stay informed about tax laws and regulations.
- Report and pay taxes and fees when due.
- Maintain adequate records.

For more information about your rights, you may wish to order publication 70, *Understanding Your Rights as a California Taxpayer*, available on our website.

### 3. New Offers in Compromise (OIC) guidelines to take effect on January 1, 2009

A law change will extend the OIC Program to include open active businesses that meet certain guidelines. The program will also allow a taxpayer the option to fund an offer in a lump sum or to pay the offered funds in installments over a period of one year.

For more information on the OIC Program, please visit our website at [www.boe.ca.gov](http://www.boe.ca.gov) or contact the OIC Section at 916-322-7931. ▶

#### 4. Get your answers in writing

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, and interest charges that are due if the Board determines you were given erroneous information. Such protection is not available for advice provided to you verbally, in person, or over the telephone.

For relief to apply, your request for advice must be in writing, must identify you, and fully describe the specific facts and circumstances of the activities or transaction for which the advice is requested.

Relief does not apply if you rely on written advice that is given to someone else, even if your transactions are similar.

Please send your requests for tax advice directly to the Excise Taxes Division (our address is listed on the last page).

For more information, please visit our website at [www.boe.ca.gov/pdf/boe8.pdf](http://www.boe.ca.gov/pdf/boe8.pdf) to download *Get It in Writing!*, BOE-8.

#### 5. Special Taxes accounts can now make electronic funds transfer (EFT) payments over the Internet!

If you are currently registered to make EFT payments for your Special Taxes account, you should have received a special notification on how to make an EFT payment over the Internet. This information can also be found as an addendum to publication 89, *Electronic Funds Transfer Information Guide, Special Taxes* on the BOE's website [www.boe.ca.gov](http://www.boe.ca.gov). Enter "publication 89" on the search line.

If you are not registered to make EFT payments for your Special Taxes account(s), you will need to complete and return *Authorization Agreement for Electronic Funds Transfer (EFT)*, BOE-555-ST. Once your request is approved and processed, you will receive a confirmation letter.

If you have any questions concerning the EFT program or need more information, please contact the Excise Taxes Division EFT Helpline at 916-327-4208.

## CIGARETTE AND TOBACCO PRODUCTS

#### 6. Reminder to retailers: Make sure suppliers are properly licensed

If your cigarette and tobacco products supplier is not properly licensed as a wholesaler or distributor, you cannot legally buy from them and you may be subject to criminal penalties, civil penalties, or both. Use the BOE website to verify that your supplier is properly licensed.

#### Need to verify a cigarette and tobacco license?

Our Internet Cigarette/Tobacco Products license verification system is available to help determine if a Cigarette/Tobacco Products license is currently valid. As a distributor, wholesaler or retailer, you are responsible for ensuring the license is valid. You may verify the validity of a Cigarette/Tobacco Products license on our website at [www.boe.ca.gov](http://www.boe.ca.gov).

Select "Verify a Permit/License" on the "Verification" page; select "Cigarette/Tobacco License Verification" and enter the license number you would like to verify. Enter numeric portion only (omit the letters and symbols).

This site will verify all cigarette and tobacco licenses for retailers, distributors, wholesalers, manufacturers and importers. It will also list the owner's name, business name and address for "Valid" or "Closed" accounts.

If you experience a problem with the on-line verification feature, please contact the Excise Taxes Division at 800-400-7115.

#### 7. Maintaining your cigarette distributor account

##### Removing authorized purchasers:

Please remember to remove former employees (or employees who no longer order stamps due to changes in responsibilities) from your list of authorized purchasers on your account. To remove an authorized purchaser, please submit a request in writing to our Stamp Desk at the address on page 3.

Your request should state your business name, cigarette distributor account number, authorized purchaser's name, authorized purchaser's email address, and the name and signature of the distributor's principal owner or authorized representative.

##### Changes of mailing or email addresses:

You must inform the Stamp Desk, in writing, of any changes to your business or email address.

##### Changes to your data communications network:

The high-volume stamp machines are synchronized with the BOE's Data Management System on a daily basis through a high-speed data line. If you plan to make changes to your data communications network or switch Internet service providers, please call Customer Support of SICPA Product Security at 703-440-7791. Staff can help you with any changes or adjustments to the stamping machine.

If you have specific questions regarding cigarette tax stamps or need to make changes to your authorized purchasers, please contact:

Stamp Desk, MIC:41  
 Excise Taxes Division  
 State Board of Equalization  
 PO Box 942879  
 Sacramento, CA 94279-0041  
 Telephone: 916-341-6923 (Stamp Desk)  
 Fax: 916-327-6235

## 8. Refund process for cigarette tax stamps

Are you filing a claim for refund for cigarette tax stamps? Here are some tips that can speed up your refund:

- Submit your claim in writing. See "FOR MORE INFORMATION" on page 4 for our address and fax number.
- While no specific form is required, the law does require that all claims be timely filed in writing and state the basis for the claim. If you prefer, you may use BOE-101, which can be found at [www.boe.ca.gov/pdf/boe101.pdf](http://www.boe.ca.gov/pdf/boe101.pdf) on the BOE website. This form is a generic template that can be used to make a claim for refund in any of the programs administered by the BOE.

Claims should include the following information:

- Number of stamps and denomination.
- Reason for the refund.
- Whether the stamps are affixed or unaffixed.

When BOE employees arrive to verify your claim, please have stamps and packs of cigarettes sorted as follows:

- Affixed and unaffixed stamps. Also separate by denomination of stamp.
- Affixed stamps—separate packs of cigarettes by manufacturer brand family.
- Packaged cigarettes in opened cartons with the stamps facing up.
- If stamped cigarette packs are to be returned to the manufacturer, BOE employees will first need to verify the authenticity of the tax stamps.

If the packages of cigarettes with stamps affixed need to be returned to the manufacturer, you should submit all related credit memos and affidavits to BOE. If you need to destroy unstamped cigarettes, please refer to article 10, Destruction of unstamped cigarettes or non-tax paid tobacco products.

**Important: Claim for Refund of Cigarette Tax on California Tax Paid Cigarettes Returned to Out-of-State Manufacturer, BOE-333-ET; no longer accepted when unsalable product is returned to the manufacturer.**

Please have staff available to obliterate the stamps. Do not return stamped cigarettes to the manufacturer until the stamps have been inspected by BOE employees. Our employees will give you a receipt for stamps that are destroyed under BOE supervision or submitted to BOE for refund.

If you have any questions related to the refund procedures for cigarette stamps, please feel free to contact the Excise Taxes Division at 800-400-7115.

## 9. Sunset date for heat-applied tax stamps

Heat applied cigarette tax stamps were phased out from distribution in 2005. Cigarette distributors have been notified that beginning January 1, 2009, only packages of cigarettes displaying the new encrypted stamp can be offered for sale or returned for refund. If you are a distributor with affixed or unaffixed heat-applied tax stamps, please contact the Excise Taxes Division at 800-400-7115 to arrange for a refund. **All refund claims for heat-applied tax stamps must be filed by December 31, 2008.**

## 10. Destruction of unstamped cigarettes or non-tax paid tobacco products

If you destroy unstamped cigarettes or non-tax paid tobacco products without the presence of a BOE employee, you may be liable for any unpaid excise tax. If you need to destroy unstamped packs of cigarettes, or non-tax paid tobacco products, contact us before you destroy your product to make sure you receive proper credit on your cigarette or tobacco products inventory. We will arrange for a BOE employee to be present to witness the destruction. Please call us at 916-327-4208 to arrange for an appointment.

## 11. Remember to check the California Tobacco Directory

Distributors should be aware that it is illegal to put a state tax stamp on cigarettes or pay the tax on roll-your-own product unless the manufacturer and the brand family are authorized for sale and listed on the California Tobacco Directory (<http://ag.ca.gov/tobacco/directory.php>).

Retailers should be aware that it is illegal to sell cigarettes and roll-your-own products that are not listed on the Attorney General's California Tobacco Directory.

Please remember to refer to the California Tobacco Directory for a list of manufacturers and brand families that are certified as being in compliance with California law. Violations of the law are subject to civil and criminal penalties, and products not listed on the directory can be seized as contraband.

## 12. Free cigarette and tobacco class

Do you know what to expect when the BOE comes to your business to conduct a cigarette and tobacco compliance inspection? This new BOE class covers:

- What to expect during an inspection
- What records to maintain
- What brands can be sold in California
- How to avoid penalties
- And much more

Free instructor-led classes are offered throughout the state. For a class schedule, visit our website, [www.boe.ca.gov](http://www.boe.ca.gov) (Free Tax Seminars) or call 916-322-8536.

## ALCOHOLIC BEVERAGES

### 13. New regulations will cause certain non-wine alcoholic beverages to be taxed as distilled spirits

The Board approved regulations necessary to clarify the definition of “distilled spirits” under the Alcoholic Beverage Tax Law. The regulations were approved by the Office of Administrative Law and became fully operative on October 1, 2008.

The regulations clarify the definition of “distilled spirits,” create a rebuttable presumption that alcoholic beverages except wine (as defined in Business and Professions Code §23007), which contain 0.5 percent or more of alcohol by volume from flavors or ingredients containing alcohol obtained from the distillation of fermented agricultural products, are “distilled spirits,” and prescribe a procedure for rebutting the presumption. Effective October 1, 2008, unless the presumption is rebutted, all non-wine alcoholic beverages will be taxed at the “distilled spirits” tax rate.

These regulations are for tax purposes only and do not impact the Alcoholic Beverage Control Board’s licensing of alcoholic beverages.

For the complete text of regulations, please visit our website [www.boe.ca.gov](http://www.boe.ca.gov).

## EMERGENCY TELEPHONE

### 14. Senate Bill 1040 amends the Emergency Telephone Users (911) Surcharge Act

The definition of “toll telephone service” has been expanded and the 911 Surcharge has been extended to include Voice over Internet Protocol (VoIP) services.

VoIP service providers are now required to register with the BOE to collect the 911 Surcharge on the telephone communication services they provide.

## FOR MORE INFORMATION

**Board Member contact and website.** Visit our website: [www.boe.ca.gov](http://www.boe.ca.gov) for Board Member information, legislative summaries, regulations, forms and publications, translated publications, and more.

**Taxpayer Information Section: 800-400-7115**

**TDD/TTY: 800-735-2929**

Representatives are available to help you from 8:00 a.m. to 5:00 p.m., Pacific time, M-F, except state holidays.

### Excise Taxes Division

#### Mailing address:

Excise Taxes Division, MIC:56  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0056

Phone: 916-327-4208

Fax: 916-323-9497

**Tax Evasion Hotline.** Call toll-free to report suspected tax evasion, 888-334-3300.

**Taxpayers’ Rights Advocate.** Call toll-free for help with problems you have been unable to resolve through normal channels, 888-324-2798.

VoIP is a technology that allows you to make voice calls over the Internet using a broadband connection instead of a regular (analog) telephone line. Effective January 1, 2009, if you provide VoIP services and your customers are able to access the “911” emergency system (also referred to as “e-911”) by utilizing the digits 9-1-1, you are required to register with the BOE. You will also be required to collect the 911 Surcharge from your customers who are located in California and remit those funds to the BOE.

If you are not currently registered, you will need to fill out a *California Excise Taxes Permit Application*, BOE-400ETC/ETI, and an *Emergency Telephone Users Surcharge, Exempt Interstate Revenue Election*, BOE 501-TE Schedule A. Both of these forms are available on the BOE website.